

SENATE BILL NO. 3—COMMITTEE OF THE WHOLE

AUGUST 2, 2020

Referred to Committee of the Whole

SUMMARY—Revises provisions relating to unemployment compensation. (BDR 53-10)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to unemployment compensation; authorizing the electronic transmission of certain documents and communications relating to unemployment compensation; revising the procedures for the adoption of an emergency regulation by the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation; revising provisions relating to eligibility for unemployment benefits in certain circumstances; authorizing the Administrator to suspend, modify, amend or waive certain requirements under certain circumstances; revising provisions governing the payment of unemployment benefits for an extended period and increasing the total extended benefits payable under certain circumstances; revising provisions relating to disqualification for unemployment compensation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires various notices or other documents or communications
2 relating to unemployment insurance to be mailed to or served upon persons. (NRS
3 612.365, 612.500, 612.515, 612.551, 612.630) **Section 2** of this bill authorizes the
4 Administrator of the Employment Security Division of the Department of
5 Employment, Training and Rehabilitation or the Division to provide such
6 documents or communications electronically to a person who has requested to
7 receive such documents or communications electronically. **Section 2** additionally
8 provides that an electronic communication does not satisfy or relieve the
9 Administrator or Division from a requirement of federal or state law to provide a
10 document or communication in the manner required by the applicable law.



11 Existing law authorizes an agency to adopt an emergency regulation if the
12 agency determines, and the Governor agrees, that an emergency exists. (NRS
13 233B.0613) **Section 3** of this bill: (1) creates a similar process for the
14 Administrator to adopt an emergency regulation; (2) provides for the review of an
15 emergency regulation of the Administrator by the Legislative Commission; and (3)
16 authorizes such an emergency regulation to be adopted more than once. **Section 14**
17 of this bill makes a conforming change.

18 Existing law generally deems a person to be unemployed, and therefore eligible
19 for unemployment benefits, in any week during which the person: (1) performs no
20 services and receives no remuneration for services; or (2) performs less than full-
21 time work, but is paid remuneration that is less than the amount the person would
22 otherwise receive in unemployment benefits. (NRS 612.185) **Section 4** of this bill
23 expands the eligibility for a person who performs less than full-time work to be
24 deemed to be unemployed to include persons who are paid remuneration that is less
25 than one and one-half times the amount the person would otherwise receive in
26 unemployment benefits.

27 **Section 5** of this bill authorizes the Administrator, by regulation and to the
28 extent allowed by federal law, to suspend, modify, amend or waive any provision
29 of the Unemployment Compensation Law for the duration of a state of emergency
30 or declaration of disaster and for any additional period of time during which the
31 emergency or disaster directly affects the requirements of the Unemployment
32 Compensation Law if the Administrator makes certain determinations and the
33 action is approved by the Governor. **Sections 12 and 13** of this bill provide, for the
34 purpose of compliance with federal law, similar authority for the Administrator, by
35 regulation and to the extent allowed by federal law, to suspend, modify, amend or
36 waive specific provisions of the Unemployment Compensation Law relating to
37 rates of contribution for employers and charging of benefits to the account of an
38 employer.

39 The Families First Coronavirus Response Act, Pub. L. No. 116-127, provides
40 for additional money being made available to states for their unemployment
41 compensation programs. To qualify for the additional money, certain provisions
42 must be included in state law. **Sections 6 and 7** of this bill temporarily revise the
43 definition of an "on" indicator for the purposes of extended unemployment benefits
44 and revise the total extended benefit amount a person may receive in a benefit year
45 during periods of high unemployment, which will allow Nevada to qualify for
46 additional money under the Families First Coronavirus Response Act. **Section 7**
47 also requires the Governor to determine whether any subsequent federal law
48 similarly provides for additional money to be made available to states for their
49 unemployment compensation programs and to issue a proclamation to that effect,
50 and the revisions in **sections 6 and 7** become effective for the period of time
51 identified in the proclamation by the Governor.

52 Existing law prohibits a person from receiving unemployment benefits for a
53 week in which the claimant received certain payments, including, without
54 limitation, severance pay or vacation pay. (NRS 612.420, 612.425, 612.430)
55 **Sections 8-10** of this bill authorize the Administrator, by regulation, to waive or
56 modify the period in which a person is disqualified from benefits for receiving
57 certain payments for good cause or upon the making of certain determinations.
58 **Section 17.5** of this bill applies the amendatory provisions of **sections 8 and 9**
59 retroactively to any week of unemployment ending on or after May 28, 2020, and
60 authorizes a regulation adopted pursuant to **sections 8 and 9** to apply retroactively
61 to such weeks of unemployment.

62 **Section 11** of this bill requires certain filings relating to judicial review of a
63 decision by the Board of Review to be served or filed within a certain period of
64 time.



65 Existing law requires a person to be disqualified from receiving unemployment
66 benefits if the Administrator determines the person has failed to apply for or accept
67 suitable work without good cause. (NRS 612.390) **Section 15** of this bill requires
68 the Administrator to establish, by regulation, justifications related to the outbreak of
69 the disease identified by the Centers for Disease Control and Prevention of the
70 United States Department of Health and Human Services as COVID-19 that
71 constitute good cause for a person to refuse suitable work. **Section 17.5** applies the
72 provisions of **section 15** retroactively to any week of unemployment ending on or
73 after May 28, 2020, and authorizes a regulation adopted pursuant to **section 15** to
74 apply retroactively to such weeks of unemployment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 612 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1.** *Except as otherwise provided by federal or state*
4 *law, the Administrator or the Division may electronically provide a*
5 *form, notice, claim, bill or other document or communication to a*
6 *person if the person has requested to receive communications by*
7 *electronic transmission, by electronic mail or other electronic*
8 *communication.*

9 **2.** *The electronic provision of a form, notice, claim, bill or*
10 *other document or communication pursuant to subsection 1 does*
11 *not satisfy or relieve the Administrator or Division of any*
12 *obligation under federal or state law to provide the form, notice,*
13 *claim, bill or other document or communication in the manner*
14 *required by the applicable state or federal law.*

15 **Sec. 3. 1.** *If the Administrator determines that an*
16 *emergency exists, the Administrator shall submit to the Governor*
17 *a written statement of the emergency which sets forth the reasons*
18 *for the determination. If the Governor endorses the statement of*
19 *the emergency by written endorsement at the end of the full text of*
20 *the statement of emergency on the original copy of a proposed*
21 *regulation and the proposed regulation is consistent with federal*
22 *law, the regulation may be adopted. If the Administrator adopts*
23 *the regulation, the Administrator shall submit the adopted*
24 *emergency regulation to the Legislative Counsel for transmission*
25 *to the Legislative Commission to determine whether the*
26 *emergency regulation, is consistent with federal law, conforms to*
27 *statutory authority and carries out the intent of the Legislature in*
28 *granting that authority. The statement of the emergency endorsed*
29 *by the Governor must be included as a part of the regulation for*
30 *all purposes.*

31 **2.** *If practicable, the Administrator shall, not later than 9*
32 *a.m. on the first working day before the date on which the*



1 emergency regulation is submitted to the Legislative Counsel
2 pursuant to subsection 1, make the emergency regulation
3 available to the public by:

4 (a) Providing a copy of the emergency regulation to a member
5 of the public upon request; and

6 (b) Making a copy of the emergency regulation available on its
7 website on the Internet, if any.

8 3. If practicable, the Administrator shall, not later than 9
9 a.m. on the first working day before the date of any hearing at
10 which the agency considers the emergency regulation, make the
11 version of the proposed emergency regulation that will be
12 considered at the hearing available to the public by:

13 (a) Providing a copy of the proposed emergency regulation to a
14 member of the public upon request; and

15 (b) Making a copy of the proposed emergency regulation
16 available on its website on the Internet, if any.

17 4. The Legislative Commission has 15 days after the
18 submission of an emergency regulation to the Legislative Counsel
19 by the Administrator pursuant to subsection 1 to consider the
20 emergency regulation. If the Legislative Commission:

21 (a) Does not consider the emergency regulation during the 15-
22 day period, the emergency regulation is deemed approved and the
23 Legislative Counsel shall promptly file the emergency regulation
24 with the Secretary of State and notify the Administrator of the
25 filing.

26 (b) Considers the emergency regulation during the 15-day
27 period and:

28 (1) Approves the emergency regulation, the Legislative
29 Counsel shall promptly file the emergency regulation with the
30 Secretary of State and notify the Administrator of the filing.

31 (2) Objects to the emergency regulation after finding that
32 the emergency regulation is not consistent with federal law or does
33 not conform to statutory authority or carry out legislative intent,
34 the Legislative Counsel shall attach to the emergency regulation a
35 written notice of the objection and shall promptly return the
36 emergency regulation to the Administrator. An emergency
37 regulation returned to the Administrator pursuant to this
38 subparagraph or any substantially identical regulation does not
39 become effective until the regulation, including any amendment to
40 the regulation determined to be necessary by the Administrator to
41 address the objection of the Legislative Commission, is approved
42 by the Legislative Commission at a subsequent meeting.

43 5. An emergency regulation adopted pursuant to this section
44 becomes effective when the Legislative Counsel files with the
45 Secretary of State the original of the final draft or revision of the



1 *emergency regulation, together with the informational statement*
2 *prepared pursuant to NRS 233B.066. The Secretary of State shall*
3 *maintain the original of the final draft or revision of each such*
4 *emergency regulation in a permanent file to be used only for the*
5 *preparation of official copies.*

6 *6. A regulation adopted pursuant to this section may be*
7 *effective for a period of not longer than 120 days.*

8 *7. A regulation may be adopted by this emergency procedure*
9 *more than once by the Administrator.*

10 *8. If the Administrator adopts, after providing notice and the*
11 *opportunity for a hearing as required in chapter 233B of NRS, a*
12 *permanent or temporary regulation which becomes effective and is*
13 *substantially identical to an effective emergency regulation, the*
14 *emergency regulation expires automatically on the effective date*
15 *of the temporary or permanent regulation.*

16 **Sec. 4.** NRS 612.185 is hereby amended to read as follows:

17 612.185 1. A person shall be deemed "unemployed" in any
18 week during which the person performs no services and with respect
19 to which no remuneration is payable to the person or in any week of
20 less than full-time work if the remuneration payable to the person
21 with respect to such week is less than *one and one-half times* the
22 person's weekly benefit amount if the person has no dependents or
23 less than *one and one-half times* the person's augmented weekly
24 benefit amount if the person has dependents.

25 2. The Administrator shall adopt regulations applicable to
26 unemployed persons, making such distinctions in the procedures as
27 to total unemployment, partial unemployment of persons who were
28 totally unemployed, partial unemployment of persons who retain
29 their regular employment and other forms of part-time work, as the
30 Administrator deems necessary.

31 3. No person shall be deemed to be unemployed in any week in
32 which the person:

33 (a) Is self-employed;

34 (b) Receives benefits for a temporary total disability or a
35 temporary partial disability pursuant to chapters 616A to 616D,
36 inclusive, or 617 of NRS; or

37 (c) Receives money for rehabilitative services pursuant to
38 chapters 616A to 616D, inclusive, or 617 of NRS.

39 **Sec. 5.** NRS 612.220 is hereby amended to read as follows:

40 612.220 The Administrator:

41 1. Shall administer this chapter.

42 2. Is responsible for the administration, through the
43 Administrator of the Commission on Postsecondary Education, of
44 the provisions of NRS 394.383 to 394.560, inclusive.



1 3. Has power and authority to adopt, amend or rescind such
2 rules and regulations ~~§~~ *consistent with the provisions of federal*
3 *law*, to employ, in accordance with the provisions of this chapter,
4 such persons, make such expenditures, require such reports, make
5 such investigations, and take such other action as the Administrator
6 deems necessary or suitable to that end.

7 4. Shall determine his or her own organization and methods of
8 procedure for the Division in accordance with the provisions of this
9 chapter.

10 5. *To the extent allowed by federal law, may, by regulation,*
11 *suspend, modify, amend or waive any requirement of this chapter*
12 *for the duration of a state of emergency or declaration of disaster*
13 *proclaimed pursuant to NRS 414.070 and for any additional*
14 *period of time during which the emergency or disaster directly*
15 *affects the requirement of this chapter if:*

16 (a) *The Administrator determines the action is:*

17 (1) *In the best interest of the Division, this State or the*
18 *general health, safety and welfare of the citizens of this State; or*

19 (2) *Necessary to comply with instructions received from the*
20 *Department of Labor; and*

21 (b) *The action of the Administrator is approved by the*
22 *Governor.*

23 **Sec. 6.** NRS 612.377 is hereby amended to read as follows:

24 612.377 As used in NRS 612.377 to 612.3786, inclusive,
25 unless the context clearly requires otherwise:

26 1. "Extended benefit period" means a period which begins with
27 the third week after a week for which there is a Nevada "on"
28 indicator and ends with the third week after the first week for which
29 there is a Nevada "off" indicator or the 13th consecutive week after
30 it began, except that no extended benefit period may begin by
31 reason of a Nevada "on" indicator before the 14th week following
32 the end of a prior extended benefit period which was in effect for
33 Nevada.

34 2. There is a "Nevada 'on' indicator" for a week if the
35 Administrator determines, in accordance with the regulations of the
36 Secretary of Labor, that ~~for~~:

37 (a) *For* the period consisting of that week and the immediately
38 preceding 12 weeks, the rate of insured unemployment in Nevada
39 (not seasonally adjusted) under NRS 612.377 to 612.3786,
40 inclusive:

41 ~~{a}~~ (1) Equaled or exceeded 120 percent of the average of
42 those rates for the corresponding 13-week period ending in each of
43 the preceding 2 calendar years and equaled or exceeded 5 percent;
44 or

45 ~~{b}~~ (2) Equaled or exceeded 6 percent ~~§~~; *or*



1 *(b) For weeks of unemployment beginning on or after*
2 *March 18, 2020, and ending on or before the week ending 4 weeks*
3 *before the last week for which full federal sharing is authorized by*
4 *section 4105(a) of Public Law No. 116-127, or which occur during*
5 *a period of time specified by the Governor in a proclamation*
6 *issued pursuant to subsection 4 of NRS 612.378, the average rate*
7 *of total seasonally adjusted unemployment in Nevada, as*
8 *determined by the Secretary of Labor, for the period consisting of*
9 *the most recent 3 months for which data for all states are*
10 *published before the close of such week:*

11 *(1) Equaled or exceeded 6.5 percent; and*

12 *(2) Equaled or exceeded 110 percent of the average rate for*
13 *the corresponding 3-month period ending in either of the 2*
14 *preceding calendar years.*

15 3. There is a “Nevada ‘off’ indicator” for a week if the
16 Administrator determines, in accordance with the regulations of the
17 Secretary of Labor, that for the period consisting of that week and
18 the immediately preceding 12 weeks, the rate of insured
19 unemployment in Nevada (not seasonally adjusted):

20 (a) Was less than 120 percent of the average of those rates for
21 the corresponding 13-week period ending in each of the preceding 2
22 calendar years; or

23 (b) Was less than 5 percent.

24 4. “Rate of insured unemployment,” for purposes of
25 subsections 2 and 3, means the percentage derived by dividing the
26 average weekly number of persons filing claims in this State for the
27 weeks of unemployment for the most recent period of 13
28 consecutive weeks, as determined by the Administrator on the basis
29 of the Administrator’s reports to the Secretary of Labor using the
30 average monthly employment covered under this chapter as
31 determined by the Administrator and recorded in the records of the
32 Division for the first four of the most recent six completed calendar
33 quarters ending before the end of the 13-week period.

34 5. “Regular benefits” means benefits payable to a person under
35 this chapter or under any other state law (including benefits payable
36 to federal civilian employees and to ex-servicemen or ex-
37 servicewomen pursuant to 5 U.S.C. §§ 8501 et seq.) other than
38 extended benefits.

39 6. “Extended benefits” means benefits (including benefits
40 payable to federal civilian employees and to ex-servicemen or ex-
41 servicewomen pursuant to 5 U.S.C. §§ 8501 et seq.) payable to a
42 person under the provisions of NRS 612.377 to 612.3786, inclusive,
43 for the weeks of unemployment in the person’s eligibility period.

44 7. “Additional benefits” means benefits payable to exhaustees
45 by reason of conditions of high unemployment or by reason of other



1 special factors under the provisions of any state law. Any person
2 who is entitled to both additional and extended benefits for the same
3 week must be given the choice of electing which type of benefit to
4 claim regardless of whether his or her rights to additional and
5 extended benefits arise under the law of the same state or different
6 states.

7 8. "Eligibility period" of a person means the period consisting
8 of the weeks in the person's benefit year under this chapter which
9 begin in an extended benefit period and, if that benefit year ends
10 within the extended benefit period, any weeks thereafter which
11 begin in that period.

12 9. "Exhaustee" means a person who, with respect to any week
13 of unemployment in the person's eligibility period:

14 (a) Has received, before that week, all of the regular, seasonal or
15 nonseasonal benefits that were available to him or her under this
16 chapter or any other state law (including augmented weekly benefits
17 for dependents and benefits payable to federal civilian employees
18 and ex-servicemen or ex-servicewomen under 5 U.S.C. §§ 8501 et
19 seq.) in the person's current benefit year which includes that week,
20 except that, for the purposes of this paragraph, a person shall be
21 deemed to have received all of the regular benefits that were
22 available to him or her, although as a result of a pending appeal with
23 respect to wages that were not considered in the original monetary
24 determination in that benefit year, the person may subsequently be
25 determined to be entitled to added regular benefits; or

26 (b) His or her benefit year having expired before that week, has
27 no, or insufficient, wages on the basis of which the person could
28 establish a new benefit year which would include that week,

29 ➤ and has no right to unemployment benefits or allowances, as the
30 case may be, under the Railroad Unemployment Insurance Act, 45
31 U.S.C. §§ 351 et seq., the Trade Expansion Act of 1962, 19 U.S.C.
32 §§ 1801 et seq., the Automotive Products Trade Act of 1965, 19
33 U.S.C. §§ 2001 et seq. and such other federal laws as are specified
34 in regulations issued by the Secretary of Labor, and has not received
35 and is not seeking unemployment benefits under the unemployment
36 compensation law of Canada. If the person is seeking such benefits
37 and the appropriate agency finally determines that the person is not
38 entitled to benefits under that law the person is considered an
39 exhaustee.

40 10. "State law" means the unemployment insurance law of any
41 state, approved by the Secretary of Labor under Section 3304 of the
42 Internal Revenue Code of 1954.



1 **Sec. 7.** NRS 612.378 is hereby amended to read as follows:

2 612.378 1. ~~[The]~~ *Except as otherwise provided in subsection*
3 *2, the* total extended benefit amount payable to any eligible person
4 for the person's applicable benefit year is the lesser of the following
5 amounts:

6 (a) Fifty percent of the basic benefits which were payable to him
7 or her in the benefit year. If the amount computed is not a multiple
8 of \$1, it must be computed to the next lower multiple of \$1.

9 (b) Thirteen times the person's average weekly benefit amount
10 which was payable to him or her under this chapter for a week of
11 total unemployment in the applicable benefit year. If the amount
12 computed is not a multiple of \$1, it must be computed to the next
13 lower multiple of \$1.

14 (c) *Thirty-nine times the person's average weekly benefit*
15 *amount which was payable to him or her under this chapter for a*
16 *week of total unemployment in the applicable benefit year,*
17 *reduced by the basic benefits which were payable to him or her in*
18 *the benefit year. If the amount computed is not a multiple of \$1, it*
19 *must be computed to the next lower multiple of \$1.*

20 2. *In weeks beginning in a high unemployment period on or*
21 *after March 18, 2020, and ending on or before the week ending 3*
22 *weeks before the last week for which full federal sharing is*
23 *authorized by section 4105(a) of Public Law No. 116-127, or*
24 *which occur during a period of time specified by the Governor in a*
25 *proclamation issued pursuant to subsection 4, the total extended*
26 *benefit amount payable to any eligible person for the person's*
27 *applicable benefit year is the lesser of the following amounts:*

28 (a) *Eighty percent of the basic benefits which were payable to*
29 *him or her in the benefit year. If the amount computed is not a*
30 *multiple of \$1, it must be computed to the next lower multiple of*
31 *\$1.*

32 (b) *Twenty times the person's average weekly benefit amount*
33 *which was payable to him or her under this chapter for a week of*
34 *total unemployment in the applicable benefit year. If the amount*
35 *computed is not a multiple of \$1, it must be computed to the next*
36 *lower multiple of \$1.*

37 (c) *Forty-six times the person's average weekly benefit amount*
38 *which was payable to him or her under this chapter for a week of*
39 *total unemployment in the applicable benefit year, reduced by the*
40 *basic benefits which were payable to him or her in the benefit*
41 *year. If the amount computed is not a multiple of \$1, it must be*
42 *computed to the next lower multiple of \$1.*

43 3. If the benefit year of any person ends within an extended
44 benefit period, the remaining balance of extended benefits that the
45 person would, but for this subsection, be entitled to receive in that



1 period, with respect to weeks of unemployment beginning after the
2 end of the benefit year, must be reduced by the product of the
3 number of weeks for which the person received any amounts as
4 trade readjustment allowances pursuant to 19 U.S.C. § 2291 within
5 that benefit year, multiplied by the weekly benefit amount of
6 extended benefits, but the balance must not be reduced below zero.

7 *4. If the Governor determines that a federal law authorizes*
8 *full federal sharing for one or more weeks to cover the costs of*
9 *extended benefits incurred pursuant to subsection 2, the Governor*
10 *shall issue a proclamation stating that determination and*
11 *specifying the weeks during which the extended benefits are*
12 *available.*

13 *5. As used in this section, "high unemployment period"*
14 *means any period during which the average rate of total*
15 *seasonally adjusted unemployment in Nevada, as determined by*
16 *the Secretary of Labor, for the period consisting of the most recent*
17 *3 months for which data for all states are published before the*
18 *close of such week:*

19 *(a) Equaled or exceeded 8 percent; and*

20 *(b) Equaled or exceeded 110 percent of the average rate for*
21 *the corresponding 3-month period ending in either of the 2*
22 *preceding calendar years.*

23 **Sec. 8.** NRS 612.420 is hereby amended to read as follows:

24 612.420 ~~[A]~~

25 *1. Except as otherwise provided in subsection 2, a person is*
26 *disqualified for benefits for any week with respect to which the*
27 *person receives either wages in lieu of notice or severance pay.*

28 *2. The Administrator may, by regulation, waive or modify the*
29 *period of disqualification set forth in subsection 1:*

30 *(a) For good cause; or*

31 *(b) If the Administrator determines such action is necessary to*
32 *expedite benefits and protect the health, safety and well-being of*
33 *claimants.*

34 **Sec. 9.** NRS 612.425 is hereby amended to read as follows:

35 612.425 ~~[A]~~

36 *1. Except as otherwise provided in subsection 2, a claimant*
37 *shall be disqualified for benefits for any week with respect to which*
38 *the claimant is on paid vacation.*

39 *2. The Administrator may, by regulation, waive or modify the*
40 *period of disqualification set forth in subsection 1:*

41 *(a) For good cause; or*

42 *(b) If the Administrator determines such action is necessary to*
43 *expedite benefits and protect the health, safety and well-being of*
44 *claimants.*



1 **Sec. 10.** NRS 612.430 is hereby amended to read as follows:
2 612.430 ~~[A]~~

3 1. *Except as otherwise provided in subsection 2, a* claimant
4 shall be disqualified for benefits for any week following termination
5 of work, which could have been compensated by vacation pay had
6 termination not occurred, if the claimant actually receives such
7 compensation at the time of separation or on regular paydays
8 immediately following termination.

9 2. *The Administrator may, by regulation, waive or modify the*
10 *period of disqualification set forth in subsection 1:*

11 (a) *For good cause; or*

12 (b) *If the Administrator determines such action is necessary to*
13 *expedite benefits and protect the health, safety and well-being of*
14 *claimants.*

15 **Sec. 11.** NRS 612.530 is hereby amended to read as follows:

16 612.530 1. Within 11 days after the decision of the Board of
17 Review has become final, any party aggrieved thereby or the
18 Administrator may secure judicial review thereof by commencing
19 an action in the district court of the county where the employment
20 which is the basis of the claim was performed for the review of the
21 decision, in which action any other party to the proceedings before
22 the Board of Review must be made a defendant.

23 2. In such action, a petition which need not be verified, but
24 which must state the grounds upon which a review is sought, must,
25 *within 45 days after the commencement of the action,* be served
26 upon the Administrator, unless the Administrator is the appellant, or
27 upon such person as the Administrator may designate, and such
28 service shall be deemed completed service on all parties, but there
29 must be left with the party so served as many copies of the petition
30 as there are defendants, and the Administrator shall forthwith mail
31 one such copy to each defendant.

32 3. *The Administrator shall file with the court an answer*
33 *within 45 days after being served with a petition pursuant to*
34 *subsection 2 or, if the Administrator is the appellant, the*
35 *Administrator shall serve the petition upon each other party within*
36 *45 days after commencement of the action.* With the
37 Administrator's answer or petition, the Administrator shall certify
38 and file with the court originals or true copies of all documents and
39 papers and a transcript of all testimony taken in the matter, together
40 with the Board of Review's findings of fact and decision therein.
41 The Administrator may certify to the court questions of law
42 involved in any decision.



1 4. In any judicial proceedings under this section, the finding of
2 the Board of Review as to the facts, if supported by evidence and in
3 the absence of fraud, is conclusive, and the jurisdiction of the court
4 is confined to questions of law.

5 5. Such actions, and the questions so certified, must be heard in
6 a summary manner and must be given precedence over all other
7 civil cases except cases arising under chapters 616A to 616D,
8 inclusive, or chapter 617 of NRS.

9 6. An appeal may be taken from the decision of the district
10 court to the appellate court of competent jurisdiction pursuant to the
11 rules fixed by the Supreme Court of Nevada pursuant to Section 4 of
12 Article 6 of the Nevada Constitution in the same manner, but not
13 inconsistent with the provisions of this chapter, as is provided in
14 civil cases.

15 7. It is not necessary, in any judicial proceeding under this
16 section, to enter exceptions to the rulings of the Board of Review,
17 and no bond may be required for entering the appeal.

18 8. Upon the final determination of the judicial proceeding, the
19 Board of Review shall enter an order in accordance with the
20 determination.

21 9. A petition for judicial review does not act as a supersedeas
22 or stay unless the Board of Review so orders.

23 **Sec. 12.** NRS 612.550 is hereby amended to read as follows:

24 612.550 1. As used in this section:

25 (a) "Average actual duration" means the number of weeks
26 obtained by dividing the number of weeks of benefits paid for weeks
27 of total unemployment in a consecutive 12-month period by the
28 number of first payments made in the same 12-month period.

29 (b) "Average annual payroll" for each calendar year means the
30 annual average of total wages paid by an employer subject to
31 contributions for the 3 consecutive calendar years immediately
32 preceding the computation date. The average annual payroll for
33 employers first qualifying as eligible employers must be computed
34 on the total amount of wages paid, subject to contributions, for not
35 less than 10 consecutive quarters and not more than 12 consecutive
36 quarters ending on December 31, immediately preceding the
37 computation date.

38 (c) "Beneficiary" means a person who has received a first
39 payment.

40 (d) "Computation date" for each calendar year means June 30 of
41 the preceding calendar year.

42 (e) "Covered worker" means a person who has worked in
43 employment subject to this chapter.

44 (f) "First payment" means the first weekly unemployment
45 insurance benefit paid to a person in the person's benefit year.



1 (g) "Reserve balance" means the excess, if any, of total
2 contributions paid by each employer over total benefit charges to
3 that employer's experience rating record.

4 (h) "Reserve ratio" means the percentage ratio that the reserve
5 balance bears to the average annual payroll.

6 (i) "Total contributions paid" means the total amount of
7 contributions, due on wages paid on or before the computation date,
8 paid by an employer not later than the last day of the second month
9 immediately following the computation date.

10 (j) "Unemployment risk ratio" means the ratio obtained by
11 dividing the number of first payments issued in any consecutive 12-
12 month period by the average monthly number of covered workers in
13 employment as shown on the records of the Division for the same
14 12-month period.

15 2. The Administrator shall, as of the computation date for each
16 calendar year, classify employers in accordance with their actual
17 payrolls, contributions and benefit experience, and shall determine
18 for each employer the rate of contribution which applies to that
19 employer for each calendar year in order to reflect his or her
20 experience and classification. The contribution rate of an employer
21 may not be reduced below 2.95 percent, unless there have been 12
22 consecutive calendar quarters immediately preceding the
23 computation date throughout which the employer has been subject
24 to this chapter and his or her account as an employer could have
25 been charged with benefit payments, except that an employer who
26 has not been subject to the law for a sufficient period to meet this
27 requirement may qualify for a rate less than 2.95 percent if his or
28 her account has been chargeable throughout a lesser period not less
29 than the 10-consecutive-calendar-quarter period ending on the
30 computation date.

31 3. Any employer who qualifies under paragraph (b) of
32 subsection 9 and receives the experience record of a predecessor
33 employer must be assigned the contribution rate of the predecessor.

34 4. Benefits paid to a person up to and including the
35 computation date must be charged against the records, for
36 experience rating, of the person's base-period employers in the same
37 percentage relationship that wages reported by individual employers
38 represent to total wages reported by all base period employers,
39 except that:

40 (a) If one of the base period employers has paid 75 percent or
41 more of the wages paid to the person during the person's base
42 period, and except as otherwise provided in NRS 612.551, the
43 benefits, less a proportion equal to the proportion of wages paid
44 during the base period by employers who make reimbursement in
45 lieu of contributions, must be charged to the records for experience



1 rating of that employer. The proportion of benefits paid which is
2 equal to the part of the wages of the claimant for the base period
3 paid by an employer who makes reimbursement must be charged to
4 the record of that employer.

5 (b) No benefits paid to a multistate claimant based upon
6 entitlement to benefits in more than one state may be charged to the
7 experience rating record of any employer when no benefits would
8 have been payable except pursuant to NRS 612.295.

9 (c) Except for employers who have been given the right to make
10 reimbursement in lieu of contributions, extended benefits paid to a
11 person must not be charged against the accounts of the person's
12 base-period employers.

13 5. The Administrator shall, as of the computation date for each
14 calendar year, compute the reserve ratio for each eligible employer
15 and shall classify those employers on the basis of their individual
16 reserve ratios. The contribution rate assigned to each eligible
17 employer for the calendar year must be determined by the range
18 within which the employer's reserve ratio falls. The Administrator
19 shall, by regulation, prescribe the contribution rate schedule to apply
20 for each calendar year by designating the ranges of reserve ratios to
21 which must be assigned the various contribution rates provided in
22 subsection 6. The lowest contribution rate must be assigned to the
23 designated range of highest reserve ratios and each succeeding
24 higher contribution rate must be assigned to each succeeding
25 designated range of lower reserve ratios, except that, within the
26 limits possible, the differences between reserve ratio ranges must be
27 uniform.

28 6. Each employer eligible for a contribution rate based upon
29 experience and classified in accordance with this section must be
30 assigned a contribution rate by the Administrator for each calendar
31 year according to the following classes:

| | |
|----|----------------------------|
| 32 | |
| 33 | Class 10.25 percent |
| 34 | Class 20.55 percent |
| 35 | Class 30.85 percent |
| 36 | Class 41.15 percent |
| 37 | Class 51.45 percent |
| 38 | Class 61.75 percent |
| 39 | Class 72.05 percent |
| 40 | Class 82.35 percent |
| 41 | Class 92.65 percent |
| 42 | Class 102.95 percent |
| 43 | Class 113.25 percent |
| 44 | Class 123.55 percent |
| 45 | Class 133.85 percent |



| | | |
|---|----------------|--------------|
| 1 | Class 14 | 4.15 percent |
| 2 | Class 15 | 4.45 percent |
| 3 | Class 16 | 4.75 percent |
| 4 | Class 17 | 5.05 percent |
| 5 | Class 18 | 5.40 percent |

6
7 7. On September 30 of each year, the Administrator shall
8 determine:

9 (a) The highest of the unemployment risk ratios experienced in
10 the 109 consecutive 12-month periods in the 10 years ending on
11 March 31;

12 (b) The potential annual number of beneficiaries found by
13 multiplying the highest unemployment risk ratio by the average
14 monthly number of covered workers in employment as shown on
15 the records of the Division for the 12 months ending on March 31;

16 (c) The potential annual number of weeks of benefits payable
17 found by multiplying the potential number of beneficiaries by the
18 highest average actual duration experienced in the 109 consecutive
19 12-month periods in the 10 years ending on September 30; and

20 (d) The potential maximum annual benefits payable found by
21 multiplying the potential annual number of weeks of benefits
22 payable by the average payment made to beneficiaries for weeks of
23 total unemployment in the 12 months ending on September 30.

24 8. The Administrator shall issue an individual statement,
25 itemizing benefits charged during the 12-month period ending on
26 the computation date, total benefit charges, total contributions paid,
27 reserve balance and the rate of contributions to apply for that
28 calendar year, for each employer whose account is in active status
29 on the records of the Division on January 1 of each year and whose
30 account is chargeable with benefit payments on the computation
31 date of that year.

32 9. If an employer transfers its trade or business, or a portion
33 thereof, to another employer:

34 (a) And there is substantially common ownership, management
35 or control of the employers, the experience record attributable to the
36 transferred trade or business must be transferred to the employer to
37 whom the trade or business is transferred. The rates of both
38 employers must be recalculated, and the recalculated rates become
39 effective on the date of the transfer of the trade or business. If the
40 Administrator determines, following the transfer of the experience
41 record pursuant to this paragraph, that the sole or primary purpose
42 of the transfer of the trade or business was to obtain a reduced
43 liability for contributions, the Administrator shall combine the
44 experience rating records of the employers involved into a single
45 account and assign a single rate to the account.



1 (b) And there is no substantially common ownership,
2 management or control of the employers, the experience record of
3 an employer may be transferred to a successor employer as of the
4 effective date of the change of ownership if:

5 (1) The successor employer acquires the entire or a severable
6 and distinct portion of the business, or substantially all of the assets,
7 of the employer;

8 (2) The successor employer notifies the Division of the
9 acquisition in writing within 90 days after the date of the
10 acquisition;

11 (3) The employer and successor employer submit a joint
12 application to the Administrator requesting the transfer; and

13 (4) The joint application is approved by the Administrator.

14 ➔ The joint application must be submitted within 1 year after the
15 date of issuance by the Division of official notice of eligibility to
16 transfer.

17 (c) Except as otherwise provided in paragraph (a), a transfer of
18 the experience record must not be completed if the Administrator
19 determines that the acquisition was effected solely or primarily to
20 obtain a more favorable contribution rate.

21 (d) Any liability to the Division for unpaid contributions,
22 interest or forfeit attributable to the transferred trade or business
23 must be transferred to the successor employer. The percentage of
24 liability transferred must be the same as the percentage of the
25 experience record transferred.

26 10. Whenever an employer has paid no wages in employment
27 for 8 consecutive calendar quarters following the last calendar
28 quarter in which the employer paid wages for employment, the
29 Administrator shall terminate the employer's experience rating
30 account, and the account must not thereafter be used in any rate
31 computation.

32 11. The Administrator may adopt reasonable accounting
33 methods to account for those employers which are in a category for
34 providing reimbursement in lieu of contributions.

35 *12. To the extent allowed by federal law, the Administrator*
36 *may, by regulation, suspend, modify, amend or waive any*
37 *requirement of this section for the duration of a state of*
38 *emergency or declaration of disaster proclaimed pursuant to NRS*
39 *414.070 and for any additional period of time during which the*
40 *emergency or disaster directly affects the requirement of this*
41 *section if:*

42 (a) *The Administrator determines the action is:*

43 (1) *In the best interest of the Division, this State or the*
44 *general health, safety and welfare of the citizens of this State; or*



1 (2) *Necessary to comply with instructions received from the*
2 *Department of Labor; and*

3 (b) *The action of the Administrator is approved by the*
4 *Governor.*

5 **Sec. 13.** NRS 612.551 is hereby amended to read as follows:

6 612.551 1. Except as otherwise provided in subsections 2, 3
7 and 7, if the Division determines that a claimant has earned 75
8 percent or more of his or her wages during his or her base period
9 from one employer, it shall notify the employer *by mail* of its
10 determination and advise him or her that he or she has a right to
11 protest the charging of benefits to his or her account pursuant to
12 subsection 4 of NRS 612.550.

13 2. Benefits paid pursuant to an elected base period in
14 accordance with NRS 612.344 must not be charged against the
15 record for experience rating of the employer.

16 3. Except as otherwise provided in subsection 7, if a claimant
17 leaves his or her last or next to last employer to take other
18 employment and leaves or is discharged by the latter employer,
19 benefits paid to the claimant must not be charged against the record
20 for experience rating of the former employer.

21 4. If the employer provides evidence within 10 working days
22 after the notice required by subsection 1 was mailed which satisfies
23 the Administrator that the claimant:

24 (a) Left his or her employment voluntarily without good cause
25 or was discharged for misconduct connected with the employment;
26 or

27 (b) Was the spouse of an active member of the Armed Forces of
28 the United States and left his or her employment because the spouse
29 was transferred to a different location,

30 ↪ the Administrator shall order that the benefits not be charged
31 against the record for experience rating of the employer.

32 5. The employer may appeal from the ruling of the
33 Administrator relating to the cause of the termination of the
34 employment of the claimant in the same manner as appeals may be
35 taken from determinations relating to claims for benefits.

36 6. A determination made pursuant to this section does not
37 constitute a basis for disqualifying a claimant to receive benefits.

38 7. If an employer who is given notice of a claim for benefits
39 pursuant to subsection 1 fails to submit timely to the Division all
40 known relevant facts which may affect the claimant's rights to
41 benefits as required by NRS 612.475, the employer's record for
42 experience rating is not entitled to be relieved of the amount of any
43 benefits paid to the claimant as a result of such failure that were
44 charged against the employer's record pursuant to NRS 612.550
45 or 612.553.



1 8. *To the extent allowed by federal law, the Administrator*
2 *may, by regulation, suspend, modify, amend or waive any*
3 *requirement of this section for the duration of a state of*
4 *emergency or declaration of disaster proclaimed pursuant to NRS*
5 *414.070 and for any additional period of time during which the*
6 *emergency or disaster directly affects the requirement of this*
7 *section if:*

8 (a) *The Administrator determines the action is:*

9 (1) *In the best interest of the Division, this State or the*
10 *general health, safety and welfare of the citizens of this State; or*

11 (2) *Necessary to comply with instructions received from the*
12 *Department of Labor; and*

13 (b) *The action of the Administrator is approved by the*
14 *Governor.*

15 **Sec. 14.** NRS 233B.039 is hereby amended to read as follows:

16 233B.039 1. The following agencies are entirely exempted
17 from the requirements of this chapter:

18 (a) The Governor.

19 (b) Except as otherwise provided in NRS 209.221, the
20 Department of Corrections.

21 (c) The Nevada System of Higher Education.

22 (d) The Office of the Military.

23 (e) The Nevada Gaming Control Board.

24 (f) Except as otherwise provided in NRS 368A.140 and 463.765,
25 the Nevada Gaming Commission.

26 (g) Except as otherwise provided in NRS 425.620, the Division
27 of Welfare and Supportive Services of the Department of Health and
28 Human Services.

29 (h) Except as otherwise provided in NRS 422.390, the Division
30 of Health Care Financing and Policy of the Department of Health
31 and Human Services.

32 (i) Except as otherwise provided in NRS 533.365, the Office of
33 the State Engineer.

34 (j) The Division of Industrial Relations of the Department of
35 Business and Industry acting to enforce the provisions of
36 NRS 618.375.

37 (k) The Administrator of the Division of Industrial Relations of
38 the Department of Business and Industry in establishing and
39 adjusting the schedule of fees and charges for accident benefits
40 pursuant to subsection 2 of NRS 616C.260.

41 (l) The Board to Review Claims in adopting resolutions to carry
42 out its duties pursuant to NRS 445C.310.

43 (m) The Silver State Health Insurance Exchange.

44 (n) The Cannabis Compliance Board.



1 2. Except as otherwise provided in subsection 5 and NRS
2 391.323, the Department of Education, the Board of the Public
3 Employees' Benefits Program and the Commission on Professional
4 Standards in Education are subject to the provisions of this chapter
5 for the purpose of adopting regulations but not with respect to any
6 contested case.

7 3. The special provisions of:

8 (a) Chapter 612 of NRS for the *adoption of an emergency*
9 *regulation or the* distribution of regulations by and the judicial
10 review of decisions of the Employment Security Division of the
11 Department of Employment, Training and Rehabilitation;

12 (b) Chapters 616A to 617, inclusive, of NRS for the
13 determination of contested claims;

14 (c) Chapter 91 of NRS for the judicial review of decisions of the
15 Administrator of the Securities Division of the Office of the
16 Secretary of State; and

17 (d) NRS 90.800 for the use of summary orders in contested
18 cases,

19 ↪ prevail over the general provisions of this chapter.

20 4. The provisions of NRS 233B.122, 233B.124, 233B.125 and
21 233B.126 do not apply to the Department of Health and Human
22 Services in the adjudication of contested cases involving the
23 issuance of letters of approval for health facilities and agencies.

24 5. The provisions of this chapter do not apply to:

25 (a) Any order for immediate action, including, but not limited
26 to, quarantine and the treatment or cleansing of infected or infested
27 animals, objects or premises, made under the authority of the State
28 Board of Agriculture, the State Board of Health, or any other agency
29 of this State in the discharge of a responsibility for the preservation
30 of human or animal health or for insect or pest control;

31 (b) An extraordinary regulation of the State Board of Pharmacy
32 adopted pursuant to NRS 453.2184;

33 (c) A regulation adopted by the State Board of Education
34 pursuant to NRS 388.255 or 394.1694;

35 (d) The judicial review of decisions of the Public Utilities
36 Commission of Nevada;

37 (e) The adoption, amendment or repeal of policies by the
38 Rehabilitation Division of the Department of Employment, Training
39 and Rehabilitation pursuant to NRS 426.561 or 615.178;

40 (f) The adoption or amendment of a rule or regulation to be
41 included in the State Plan for Services for Victims of Crime by the
42 Department of Health and Human Services pursuant to NRS
43 217.130; or



1 (g) The adoption, amendment or repeal of rules governing the
2 conduct of contests and exhibitions of unarmed combat by the
3 Nevada Athletic Commission pursuant to NRS 467.075.

4 6. The State Board of Parole Commissioners is subject to the
5 provisions of this chapter for the purpose of adopting regulations but
6 not with respect to any contested case.

7 **Sec. 15.** Notwithstanding any provision of NRS 612.390 to the
8 contrary, for the period of time that any emergency directive issued
9 by the Governor pursuant to chapter 414 of NRS relating to the
10 outbreak of the disease identified by the Centers for Disease Control
11 and Prevention of the United States Department of Health and
12 Human Services as COVID-19 remains in effect, the Administrator
13 of the Employment Security Division of the Department of
14 Employment, Training and Rehabilitation shall, by regulation,
15 establish justifications related to COVID-19 that may constitute
16 good cause for a person to refuse suitable work. Such justifications
17 may include, without limitation, that:

18 1. The employer cannot offer suitable means by which the
19 person may work remotely and a medical professional has
20 recommended that the person not return to work because the person
21 falls into one of the categories deemed high risk for contracting
22 COVID-19 by the Centers for Disease Control and Prevention.

23 2. The person is sick or in isolation as a direct result of
24 COVID-19.

25 3. There is an unreasonable risk of exposure to COVID-19 at
26 the place of employment of the person and the person falls into one
27 of the categories deemed high risk for contracting COVID-19 by the
28 Centers for Disease Control and Prevention.

29 4. The person is staying home to care for a family member who
30 is suffering from COVID-19 or subject to a prescribed period of
31 quarantine by a medical professional.

32 5. The person is caring for a child who is unable to attend
33 school or a child care facility because of COVID-19.

34 6. The person is 65 years of age or older.

35 7. The person is under any other circumstance that the
36 Administrator determines, when considering the totality of the
37 person's circumstances, constitutes good cause.

38 **Sec. 16.** Notwithstanding the provisions of NRS 218D.430 and
39 218D.435, a committee may vote on this act before the expiration of
40 the period prescribed for the return of a fiscal note in NRS
41 218D.475. This section applies retroactively from and after
42 August 2, 2020.

43 **Sec. 17.** As soon as practicable, upon determining that
44 sufficient resources are available to the Employment Security
45 Division of the Department of Employment, Training and



1 Rehabilitation to carry out the amendatory provisions of section 4 of
2 this act, the Administrator of the Employment Security Division of
3 the Department of Employment, Training and Rehabilitation shall
4 notify the Governor and the Director of the Legislative Counsel
5 Bureau of that fact, and shall publish on the Internet website of the
6 Division notice to the public of that fact.

7 **Sec. 17.5.** To the extent allowed by federal law:

8 1. The amendatory provisions of sections 8, 9 and 15 of this act
9 apply retroactively to any week of unemployment ending on or after
10 May 28, 2020.

11 2. Any regulation adopted by the Administrator of the
12 Employment Security Division of the Department of Employment,
13 Training and Rehabilitation pursuant to section 8, 9 or 15 of this act
14 may be applied retroactively to any week of unemployment ending
15 on or after May 28, 2020.

16 **Sec. 18.** 1. This section and sections 1, 2, 3 and 5 to 17.5,
17 inclusive, of this act become effective upon passage and approval.

18 2. Section 4 of this act becomes effective:

19 (a) Sixty days after passage and approval of this act; or

20 (b) On the date on which the Administrator of the Employment
21 Security Division of the Department of Employment, Training and
22 Rehabilitation, pursuant to section 17 of this act, notifies the
23 Governor and the Director of the Legislative Counsel Bureau that
24 sufficient resources are available to enable the Division to carry out
25 the amendatory provisions of section 4 of this act,

26 ↪ whichever occurs first.



